

Brewer City Council Minutes
January 14, 2013

Regular Meeting
City Hall Council Chambers

Monday, January 14, 2013
6:00 p.m.

The regular meeting was called to order by Chairman Kevin O'Connell.
The city clerk called the roll:

Councilor Ferris	-	present	Councilor Vachon	-	present
Councilor Verow	-	present	Chairman O'Connell	-	present
Councilor Goss	-	present			

Chairman O'Connell declared a quorum present. Assistant City Manager Varisco and City Solicitor Dearborn were also present.

Chairman O'Connell led members of the council and others present in reciting the pledge of allegiance to the flag of the United States of America.

Chairman O'Connell read the notice for the regular meeting.

TO: Joseph Ferris, Arthur Verow, Jerry Goss, Kevin O'Connell and Matthew Vachon
MEMBERS OF THE BREWER CITY COUNCIL You are hereby notified a regular meeting of the City Council will be held on Monday, January 14, 2013 at 6:00 p.m. in the Council Chambers at Brewer City Hall to consider and act on the items on the attached agenda.

s/Kevin O'Connell

Mayor and Chairman of the City Council

or _____
Majority of the City Council

a true copy, attest: s/Pamela J. Ryan
City Clerk

OFFICER'S RETURN

I have on the date(s) and time(s) indicated given notice of this meeting by giving in hand or by leaving at the usual dwelling place of the within named an attested copy of this notice of meeting:

Given/Delivered to:	by (person delivering)	Title	Date	Time
Joseph Ferris	E. Benjamin	Ptl.	01/10/13	1655
Matthew Vachon	E. Benjamin	Ptl.	01/10/13	1800
Arthur Verow	D. Gauvin	Cpl.	01/10/13	1858
Jerry Goss	D. Gauvin	Cpl.	01/10/13	1653
Kevin O'Connell	C. Landes	DCC	01/10/13	1600

CITY COUNCIL REGULAR MEETING
Monday, January 14, 2013 6:00 P.M.
Brewer City Hall Council Chambers

- I. Call to Order.** (Mayor Kevin O'Connell)
- II. Roll Call.** (City Clerk)
- III. Pledge of Allegiance to the Flag of the United States of America. Regular Meeting**
(Mayor O'Connell)
- A. Minutes of December 11, 2012 Regular Meeting.** (Councilor Verow)
- B. Awards, Petitions and Public Comments.**
 - 1. (2013-B001) RESOLVE, Recognize Mason Duplissie for Earning the Rank of Eagle Scout. (Councilor Goss)
 - 2. Presentation: Certificate of Appreciation to the Brewer Fire Department from Marine Corp. League Detachment 1151. (William Jones)
 - 3. Presentation of FY2012 Audit.
 - 4. Doyle Field Feasibility Study. (Councilor Goss)
 - 5. Discussion of Possible Uses of the Old Library. (Councilor Verow)
 - 6. Public Comments.
- IV. Recess for Public Hearing.**

Application of The Brewer Taco Stand LLC d/b/a Pepino's Taco Stand, 513 South Main Street for State of Maine Restaurant Class I, II, III, IV (malt, spirituous and vinous) Liquor License.
- V. Adjourn Public Hearing and Continue with Regular Meeting.**
- C. Consent Calendar.**
 - 1. (2013-A001) ORDER, Issue a Release Deed to South Brewer Redevelopment LLC Successor of Growe, Gary M. Trustee, Elm Street. (Councilor Vachon)
 - 2. (2013-A002) ORDER, Issue a Release Deed to Scott D. Deabay of Carmel, Maine Successor of David A. Mitchell DBA D.A. Mitchell's Inc., 990 Wilson Street. (Councilor Verow)
 - 3. (2013-A003) ORDER, Approve Exhibits to the Settlement Agreement With James L. Kearns, a/k/a James L. Kearns, Jr. (Councilor Goss)
 - 4. (2013-A004) ORDER, Authorize Amendments to City's Cafeteria Plan. (Councilor Ferris)
 - 5. (2013-B002) RESOLVE, Amend the Schedule of City Council Regular Meetings to Change the February and March Regular Meeting Dates. (Councilor Verow)

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6. (2013-B003) RESOLVE, Approve Liquor License Application of The Brewer Taco Stand LLC d/b/a Pepino's Taco Stand, 513 South Main Street. (Councilor Goss)

D. Monthly Reports. (Councilor Verow)

E. Nominations, Appointments, Elections.

1. (2013-A005) ORDER, Amend the List of Appointed Members to the Comprehensive Plan Committee.
(Councilor Vachon)

F. Unfinished Business.

1. (2012-C020) Amend Chapter 9, Entitled "Fire Prevention", Article 6 Fireworks, Section 602 Exceptions of the Charter, Codes and Ordinances of the City of Brewer. (Councilors Ferris and Verow)
(posted 12/12/12).

G. New Business.

1. (2013-C001) Amend Chapter 24, Entitled "Land Use", Article 3 Zoning Districts, Section 306.5, Schedule of Uses to Allow Churches within the Rural Zone, General Business Zone, Industrial Zone, Office Residential Zone and Professional Business Zone of the Charter, Codes and Ordinances of the City of Brewer.
(Councilor Ferris).

H. New Items with Leave of Council.

I. ADJOURN.

A. Minutes of December 11, 2012 Regular Meeting.

ACTION: Councilor Verow moved that the minutes be accepted and placed on file. The motion was seconded and passed by unanimous vote.

B. Awards, Petitions and Public Comments.

2013-B001

January 14, 2013

TITLE: RESOLVE, RECOGNIZE MASON DUPLISSIE FOR EARNING THE RANK OF EAGLE SCOUT.

filed January 8, 2013
by Jerry Goss

WHEREAS, Mason Duplissie, a member of Boy Scout Troop 1, recently completed all of the requirements to earn the rank of Eagle Scout, the Boy Scouts of America's highest award; and

WHEREAS, at a Boy Scouts of America Court of Honor held on Monday, December 17, 2012, Mason Duplissie was officially awarded the rank of Eagle Scout; and

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WHEREAS, as part of the required Service Project for the Eagle Scout Award, Mason coordinated and oversaw the design, construction and placement of a picnic table and shelter for the Brewer Public Library; and

WHEREAS, Mason dedicated the new table and shelter to Mr. John Goodness of Brewer, who passed away last fall, but had always been an ardent supporter of the Boy Scouts, Girl Scouts and Brewer Library; and

WHEREAS, it is the sense of the Brewer City Council that earning the rank of Eagle Scout is a great achievement;

NOW, THEREFORE, BE IT RESOLVED, that the Brewer City Council, on behalf of the Citizens of Brewer, herewith extends its congratulations to Mason Duplissie for earning the rank of Eagle Scout and recognizes and appreciates his outstanding community project.

ACTION: Councilor Goss moved that the resolve be adopted. The motion was seconded and passed.

Mayor O'Connell read a letter of congratulations from the City Council on earning the rank of Eagle Scout and presented it to Mason.

Councilor Goss read the resolve into the record.

Councilor Goss presented Mason with a framed attested copy of the resolve.

The resolve was adopted by unanimous vote.

PRESENTATION: CERTIFICATE OF APPRECIATION TO THE BREWER FIRE DEPARTMENT.

William Jones and Brian Goggins from the Marine Corp. League Detachment 1151 presented a certificate of appreciation to the Brewer Fire Department for donating toys collected during the holidays for needy children. The Marines host the local annual Toys 4 Tots program. Chief Ralph Cammack accepted the certificate.

PRESENTATION OF FY2012 AUDIT.

(see attached statement from Finance Director Karen Fussell and statement and charts from Casey Leonard of Runyon Kersteen Ouellette.

DOYLE FIELD FEASIBILITY STUDY.

Joe Cote, Cianbro vice president and Jim Donnelly, Executive Vice President of Business Banking at Machias Savings Bank having been serving on a volunteer group to research the idea and do the fundraising. The volunteers have already done a survey and found there is community interest in improving the field. One of the takeaways, Mr. Cote said, is that in these times it might be a challenge to raise these funds. After some discussion and Council members expressing their opinions of the project, the volunteers said they would be back in a month to give the Council a more comprehensive overview.

DISCUSSION: Possible Uses of the Old Library.

Frank Higgins, City Engineer, gave a short overview of what the old library space could be used for. Possibility of turning this space into offices for Code Enforcement. This would be subject to availability of funds for such a project. For now repair to the library roof is all that will be done.

PUBLIC COMMENTS.

In response to a question from Councilor Ferris about Winterfest, Development Director D'arcy Main-Boyington said that Winterfest would not be taking place this year. People that they had hoped were going to form the committee to run this were not able to make this commitment.

Development Director D'arcy Main-Boyington also mentioned that the development office is working with a group to open a food cupboard here in Brewer possibly in the next two months. They are actively looking for space at this time.

IV. Recess for Public Hearings.

1. The Brewer Taco Stand LLC d/b/a Pepino's Taco Stand, 513 South Main Street for State of Maine Restaurant Class I, II, III, IV (malt, spirituous and vinous) Liquor License.

The public hearing was called to order by Chairman Kevin O'Connell.
The city clerk called the roll:

Chairman O'Connell	-	present	Councilor Vachon	-	present
Councilor Goss	-	present	Councilor Ferris	-	present
Councilor Verow	-	present			

Chairman O'Connell declared a quorum present. The City Clerk read the notice for the public hearing.

CITY OF BREWER PUBLIC NOTICE

Notice is hereby given that the Brewer City Council will hold a public hearing on Monday, the 14th day of January, 2013 at 6:00 p.m. in the Council Chambers at Brewer City Hall to consider the application for a State of Maine Class I, II, III and IV (malt, spirituous and vinous) liquor license for the following applicant:

1. The Brewer Taco Stand LLC d/b/a Pepino's Taco Stand, 513 South Main Street.

This application is available for public inspection at the office of the **Brewer City Clerk (989-7050)** and this notice is posted on the bulletin board at Brewer City Hall.

Any person may attend this public hearing and speak on this application. Written comments may also be submitted. The deadline for submission of written comments is 4:00 p.m. on the date of the hearing. Written comments should be addressed to Brewer City Council, c/o City Clerk, 80 No. Main Street, Brewer, Maine 04412.

Pamela J. Ryan
City Clerk

published January 7, 8 and 9, 2013
in the Bangor Daily News

There were no public comments.

Councilor Verow moved that the reports received from the City inspectors be accepted and placed on file. The motion was seconded and passed.

V. Adjourn Public Hearings and Continue with Regular Meeting

Public Hearing adjourned at 7:08 p.m.

The City Clerk called the roll and all were present.

Chairman O'Connell said the regular meeting would resume.

C. Consent Calendar.

ACTION: Councilor Verow moved that the orders on the consent calendar have passage and the resolves be adopted. The motion was seconded and passed by unanimous vote.

2013-A001

January 14, 2013

TITLE: ORDER, ISSUE A RELEASE DEED TO SOUTH BREWER REDEVELOPMENT LLC SUCCESSOR OF GROWE, GARY M. TRUSTEE, ELM STREET.

filed January 8, 2013
by Matthew Vachon

ORDERED, that a municipal release deed be issued to South Brewer Redevelopment LLC successor of Growe, Gary M. Trustee releasing to them all rights, title and interest the City of Brewer may have acquired in the property on Elm Street (City Tax Map 22, Lot 75) by virtue of City of Brewer tax or sewer lines recorded in the Penobscot County Registry of Deeds in the following volumes and pages:

Volume	Page
9932	262

AND FURTHER ORDERED, that the City Manager, or his designee, is herewith authorized to execute the said municipal release deed on behalf of the City of Brewer, Maine.

NOTE: A total of \$33.89 in principal was collected, along with \$1.02 in interest and \$32.48 in costs.

2013-A002

January 14, 2013

TITLE: ORDER, ISSUE A RELEASE DEED TO SCOTT D. DEABAY OF CARMEL, MAINE SUCCESSOR OF DAVID A. MITCHELL, DBA D.A. MITCHELL'S INC., 990 WILSON STREET.

filed January 8, 2013
by Arthur Verow

ORDERED, that a municipal release deed be issued to Scott D. Deabay of Carmel, Maine successor of David A. Mitchell dba D.A. Mitchell's Inc. releasing to him all rights, title and interest the City of Brewer may have acquired in the property on 990 Wilson Street (City Tax Map 3, Lot 34) by virtue of City of Brewer tax or sewer lines recorded in the Penobscot County Registry of Deeds in the following volumes and pages:

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Volume	Page
11856	44
12506	326
12408	054
12847	259

AND FURTHER ORDERED, that the City Manager, or his designee, is herewith authorized to execute the said municipal release deed on behalf of the City of Brewer, Maine.

NOTE: A total of \$10,744.73 in principal was collected, along with \$183.53 in interest and \$48.25 in costs.

2013-A003

January 14, 2013

TITLE: ORDER, APPROVE EXHIBITS TO THE SETTLEMENT AGREEMENT
WITH JAMES L. KEARNS, A/K/A JAMES L. KEARNS, JR.

filed January 8, 2013
by Jerry Goss

WHEREAS, the City Council approved a Settlement Agreement with James L. Kearns, a/k/a James L. Kearns, Jr., in relation to the property situated at 87 Parker Street, Brewer, Maine, by City Council Order 2012-A237 at its November 19, 2012 City Council meeting; and

WHEREAS, the City Council reserved the right to review and approve the Exhibits; and

WHEREAS, the City Council has reviewed the attached Exhibits that are to be incorporated into the approved Settlement Agreement;

NOW, THEREFORE, BE IT ORDERED, that the City Council hereby approves the attached Exhibits to be incorporated into the Settlement Agreement with James L. Kearns, a/k/a James L. Kearns, Jr. authorized by City Council Order 2012-A237.

2013-A004

January 14, 2013

TITLE: ORDER, AUTHORIZE AMENDMENTS TO CITY'S CAFETERIA
PLAN.

filed January 8, 2013
by Joseph Ferris

WHEREAS, the City maintains a cafeteria plan to benefit its employees; and

WHEREAS, the City's plan administrator recommends the City update its plan language to reflect changes required by the Patient Protection and Affordable Care Act that are effective January 1, 2013, including the change in the definition of "dependent" for health insurance coverage purposes, new eligibility standards for health flexible spending reimbursements and language that addresses the change in employee annual maximum contribution limits; and

WHEREAS, these changes are administrative in nature and will have no impact on the City's cafeteria plan or other benefit costs except the \$195 fee to update the plan documents;

NOW, THEREFORE, BE IT RESOLVED, that the City Council hereby authorizes the City Manager, or his designee, to sign the City of Brewer Cafeteria Plan document that has been updated to incorporate changes required by the Patient Protection and Affordable Care Act and to distribute a summary of the Plan to participating employees.

2013-B002

January 14, 2013

TITLE: RESOLVE, AMEND THE SCHEDULE OF CITY COUNCIL REGULAR
MEETINGS TO CHANGE THE FEBRUARY AND MARCH
REGULAR MEETING DATES.

filed January 8, 2013
by Arthur Verow

WHEREAS, the City Council, at its annual meeting held on November 20, 2012, adopted Resolve 2012-B075 establishing dates of its regular monthly meeting for 2013; and

WHEREAS, Tuesday, February 12, 2013 and Tuesday, March 12, 2013 were established as the dates for the February and March, 2013 regular meetings; and

WHEREAS, all members of the City Council will not be available to attend these Council meetings;

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NOW, THEREFORE, BE IT RESOLVED, that Council Resolve 2012-B075, be amended by changing the date of the regular meeting for the month of February 2013 from Tuesday, February 12, 2013 to Monday, February 11, 2013 and for the month of March 2013 from Tuesday, March 12, 2013 to Monday, March 18, 2013 at 6:00 p.m.

2013-B003

January 14, 2013

TITLE: RESOLVE, APPROVE LIQUOR LICENSE APPLICATION OF
THE BREWER TACO STAND LLC D/B/A PEPINO'S TACO
STAND, 513 SOUTH MAIN STREET.

filed January 8, 2013
by Jerry Goss

WHEREAS, The Brewer Taco Stand LLC d/b/a Pepino's Taco Stand, 513 South Main Street has applied to the State of Maine, Bureau of Liquor Enforcement, for a Restaurant Class I, II, II, and IV (malt, spirituous and vinous) liquor license; and

WHEREAS, the Brewer City officials have reviewed this application and done background checks on the applicant and have submitted recommendations to the City Council on this application; and

WHEREAS, after considering their recommendations the City Council finds as follows:

1. The applicants have not been convicted of any Class A, Class B, or Class C crime;
2. The licensed premises and its use are in compliance with all local zoning ordinances and other land use ordinances not directly related to liquor control;
3. There is no record such as waste disposal violations, health or safety violations or repeated parking or traffic violations on or in the vicinity of the licensed premises and caused by person patronizing or employed by the licensed premises or other such conditions caused by persons patronizing or employed by the licensed premises which unreasonably disturb, interfere with or affect the ability of persons or businesses residing or located in the vicinity of the licensed premises to use their property in a reasonable manner;
4. There is no record of repeated incidents of record of breaches of peace, disorderly conduct, vandalism or other violations of law on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises; and
5. There is no record of the applicants having a violation of any provisions of Title 28-A, M.R.S.A. (Liquor Laws).

NOW, THEREFORE, BE IT RESOLVED, that the Brewer City Council approves the application of The Brewer Taco Stand LLC d/b/a, Pepino's Taco Stand, 513 South Main Street, for a State of Maine, Bureau of Liquor Enforcement, for a Restaurant Class I, II, III and IV (malt, spirituous and vinous) liquor license.

D. Monthly Reports.

ACTION: Councilor Verow moved that the monthly reports from the city departments be accepted and placed on file. The motion was seconded and passed by unanimous vote.

E. Nominations, Appointments, Elections.

2013-A005

January 14, 2013

TITLE: ORDER, AMEND THE LIST OF APPOINTED MEMBERS TO THE COMPREHENSIVE PLAN COMMITTEE.

filed January 8, 2013
by Matthew Vachon

WHEREAS, the City of Brewer created a Comprehensive Plan Committee and appointed its members at the November 19, 2012 City Council meeting; and

WHEREAS, due to his employment, Rob Cross cannot accept this appointment to serve on said Committee; and

WHEREAS, Kevin Gresser of Nickerson & O'Day and Brewer Economic Development Specialist Nicole Gogan have both expressed an interest in being a member of said Committee;

NOW, THEREFORE, BE IT ORDERED, that the Brewer City Council herewith appoints Kevin Gresser and Nicole Gogan to the Comprehensive Plan Committee.

ACTION: Councilor Vachon moved that the order have passage. The motion was seconded and passed.

The order was passed by unanimous vote.

F. Unfinished Business.

2012-C020

December 11, 2012

TITLE: AMEND CHAPTER 9, ENTITLED "FIRE PREVENTION",
ARTICLE 6 FIREWORKS, SECTION 602 EXCEPTIONS OF THE
CHARTER, CODES AND ORDINANCES OF THE CITY OF BREWER.

filed December 11, 2012
(after the deadline)
by Joseph Ferris and
Arthur Verow

Be it ordained by the City Council of the City of Brewer in City Council assembled that Chapter 9 of the Charter, Codes and Ordinances of the City of Brewer entitled "The Fire Department", Article 6 Fireworks, Section 602 Exceptions be amended as follows:

SECTION 602. EXCEPTIONS. The provisions of this Ordinance shall not apply to the use or possession of signal torpedoes or other signaling devices by railroads in the operation of their trains; or to the sale, use or possession of normal stocks of flash light compositions for photographers or dealers in photographic supplies or flares used to mark disabled vehicles or dangerous spots on the highways or toy pistols, toy canes, toy guns or cannons in which paper caps containing 25/100ths grains or less of explosive compound are used, if they are so constructed that the hand cannot come in contact with the cap when in place for the explosion, or to the sale, possession or use of sparklers that do not contain magnesium chlorinates or per chlorates. Additionally, beginning January 1, 2012, the provisions of this Ordinance shall not apply to the sale, and possession or use of consumer fireworks as defined under Title 8 M.R.S.A. § 221-A(1-A), within the City of Brewer, so long as the sale, and possession and use of the consumer fireworks are consistent with Title 8 M.R.S.A. § 221-A through and including Section 237, the rules adopted by the Commissioner of the Maine Department of Public Safety and federal law. The use of consumer fireworks shall be restricted to those areas of the City of Brewer that permit the discharge of shotguns, muzzle loaders, black powder guns, revolvers and pistols pursuant to Chapter 35 of the Codes and Ordinances of the City of Brewer.

ACTION: Councilor Ferris moved that the ordinance amendment be enacted. The motion was seconded and passed.

The ordinance amendment was enacted by unanimous vote.

G. New Business.

2013-C001

January 14, 2013

TITLE: AMEND LAND USE CODE, CHAPTER 24, ENTITLED "LAND USE", ARTICLE 3 ZONING DISTRICTS, SECTION 306.5, SCHEDULE OF USES TO ALLOW CHURCHES WITHIN THE RURAL ZONE, GENERAL BUSINESS ZONE, INDUSTRIAL ZONE, OFFICE RESIDENTIAL ZONE AND PROFESSIONAL BUSINESS ZONE OF THE CHARTER CODES AND ORDINANCES OF THE CITY OF BREWER.

filed January 8, 2013
by Joseph Ferris

Be it ordained by the City Council of the City of Brewer in City Council assembled that Chapter 24, Article 3 Zoning District, Section 306.5, Schedule of Uses of the Charter, Codes and Ordinances of the City of Brewer entitled "Land Use Code" be amended by allowing churches in the Rural Zone, General Business Zone, Industrial Zone, Office Residential Zone and Professional Business Zone.
(See attached Matrix)

ACTION: Councilor Ferris moved that one copy of the proposed ordinance amendment be certified and filed with the City Clerk for posting. The motion was seconded and passed by unanimous vote.

H. New Items with Leave of Council.

None.

Chairman O'Connell said he would accept a motion for adjournment.

ACTION: Councilor Goss moved that the meeting be adjourned. The motion was seconded and passed by unanimous vote. The meeting adjourned at 7:13 pm.

ADJOURNED, ATTEST:_____ Pamela J. Ryan

City Clerk

A TRUE COPY, ATTEST:_____ Brewer, Maine